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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,177	01/29/2001	Ake Lindahl	003300-696	2132

35437 7590 07/12/2007  
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO  
666 THIRD AVENUE  
NEW YORK, NY 10017

EXAMINER

FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
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1618

MAIL DATE	DELIVERY MODE
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07/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/700,177

Applicant(s)

LINDAHL, AKE ET AL

Examiner

Blessing M. Fubara

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 58, 61-63, 65-68, 70, 73, 76, 77, 81, 82, 84, 86, 87, 90, 92, 95, 98-112, 114, 116-119, 121-123, 125, 126, 128-131, 133, 134, 136-139 and 141-143 is/are pending in the application.

4a) Of the above claim(s) 58, 62, 63, 66-68, 70, 73, 76, 77, 84, 86, 92, 95, 98-106, 111, 112, 116-119, 121, 123, 125, 126, 128-131, 133, 134, 136-139, 141 and 142 is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61, 65, 81, 82, 87, 90, 107-110, 114, 122 and 143 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

Examiner acknowledges receipt of response to election/restriction requirement, amendment, request for extension of time and remarks filed 4/17/07. Claims 58, 61-63, 65-68, 70, 73, 76, 77, 81, 82, 84, 86, 87, 90, 92, 98-112, 114, 116-119, 121-123, 125, 126, 128-131, 133, 134, 136-139 and 141-143 are pending.

***Election/Restrictions***

1. Applicant's election with traverse (traversal was stated in July 6, 2006 response) of claims 61, 65, 81, 82, 87, 90, 107-110, 114, 122 and 143 in the reply filed on 4/17/07 is acknowledged. The traversal was on the ground(s) that the process by which the biologically active compositions are formed is the same for all processes recited in generic claims 107, 87, 108, 109, 110, 114, 122 and 143. Applicant also elects acid and alcohol as the carrier species and by electing alcohol or acid applicant appears to be indicating that the acid and alcohol are equivalent. This is not found persuasive because the reaction processes of polymerization, hydrolysis, elimination, hydrolysis, esterification, etherification are all different reactions so that the inventive processes of the different reactions are not common to each. Furthermore, applicant's election of two different carriers, acid and alcohol, appears to indicate that the alcohol and the acid are treated the same in the claims, even though claim 107, for example, recites **alcohol or acid**. However, since applicant insists that the alcohol and the acid are equivalent as carrier, the art used to reject the alcohol will be used to reject the acid. See for example claim claims 81 and 82 that are separately directed to alcohol and acid. Claims 58, 62, 63, 66-68, 70, 73, 76, 77, 84, 86, 92, 95, 98-106, 111, 112, 116-119, 121, 123, 125, 126, 128-131, 133, 134, 136-139, 141 and 142 are thus withdrawn from consideration.

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The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 61, 65, 81, 82, 87, 90, 107-110, 114, 122 and 143 are rejected under 35 U.S.C. 102(b) as being anticipated by Graham et al. (US 4,814,182).

Graham discloses the formation of polyethylene oxide hydrogel by reacting polyethylene oxide, hexane triol and bis isocyanatocyclohexyl methane (column 2, lines 12-55; Example 1), specific classes of drugs such as antifungal agents are dispersed in the polymerizing monomers or hydrogel (column 3, lines 63 and 64; column 5, lines 53-55). The hydrogel is a homo or copoly(alkylene oxide) and the crosslinking of the polymer is an entanglement cross-linking process that utilizes polymerising monomers such as glycol dimethacrylate (column 3, lines 3-24). Graham meets the limitations of the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 5:30 p.m. (Monday to Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Blessing Fubara  
Patent Examiner  
Tech. Center 1600

A handwritten signature in black ink, appearing to read "Blessing Fubara", with a stylized flourish at the end.